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C O N F I D E N T I A L SECTION 01 OF 04 BANGKOK 006593

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TAGS: [PGOV](#) [PHUM](#) [TH](#)  
SUBJECT: SELECTION OF CONSTITUTION DRAFTERS BEGINS

REF: A. BANGKOK 6399 (GETTING TO A NEW THAI CONSTITUTION)

[1](#)B. BANGKOK 6354 (CIVIL SOCIETY: PATIENCE WEARING  
THIN)

Classified By: Political Counselor Susan M. Sutton, reason 1.4 (b) (d)

[1](#)1. (C) SUMMARY: The selection of the 2000-member National Peoples Assembly is underway, the first step in a multi-stage process to choose the drafters of the new constitution. The complicated process may result in a constitution drafting body more representative than the widely-criticized interim legislature, but results will not be known until the final selections are made, probably by late December. A legal expert involved in the process believes that the new constitution and other required new laws can be ready in time to return to democratically-elected government in a year, but this will require some compression of the timeline laid out in the interim constitution. The selection of a respected drafting committee could defuse some of the criticisms of the interim government and the coup council. END SUMMARY.

[1](#)2. (SBU) On October 18, the Council for National Security (CNS) announced it had selected a 17-member committee which will, in turn, choose the 2000 members of the National People's Assembly, the first step in the process of drafting the new constitution. The Selection Committee membership includes the permsecs or secgens of several ministries and agencies, as well as jurists and civil society representatives. The committee is headed by ACM Chalit Pukphasuk, deputy chair of the CNS. The Selection Committee will choose 2000 people "from all walks of life" as the first step in a multi-layered process that will eventually result in a 35-member Constitution Drafting Committee (CDC) to write the new charter. This complicated process is set out in the interim Constitution; the Selection Committee distributed a handbook on October 27 laying out in detail the procedures for choosing the 2000 NPA members. The Selection Committee also announced their proposed timetable for the selection of the 2000 members:

October 27-Nov. 2 Provincial selection committees send nomination forms to related organizations for the nomination of candidates

Nov. 3 Nominated candidates report to the respective

provincial selection committees

Nov. 4-8 Period during which objections can be raised to any candidate

Nov. 14-15 Selections are made

Nov. 17 List of winning candidates from the provincial selection committees submitted to the central Selection Commission.

13. (SBU) The members of the NPA must be at least 18 years old, and they cannot have been a member of a political party for the past two years. According to the press reports, the 2000 members will be drawn from the following sectors of society, each with an attached quota:

Economic and Social Sector - 767 members

Government Sector - 312

Local Administrative Organizations - 227

Independent Organizations - 16

Technocrats/Specialists - 302

Students - 140

Multi-disciplinary Professionals selected by the Cabinet - 115

Multi-disciplinary Professionals selected by the CNS - 115

Multi-disciplinary Professional selected by the CNS and Cabinet - open. This category will be used to pick however many are needed to make up the 2000 total, in case any of the other categories come up short of candidates.

Some of these sectors are further divided into sub-groups, such as labor unions, journalists, and other professional associations.

BANGKOK 00006593 002 OF 004

AND THE WINNER IS...

14. (U) According to the interim Constitution, once the 2000 members are appointed by the King, the NPA will convene and, within seven days, nominate 200 of its members as candidates for the Constitution Drafting Assembly (CDA). The NPA will then dissolve itself. The following steps are then laid out in the interim constitution:

-- The Council for National Security will choose 100 of these candidates to form the Constitution Drafting Assembly (CDA). (The first meeting of the CDA starts the clock ticking: they then have 180 days to draft and approve the constitution.)

-- This Assembly in turn chooses "25 eminent persons who may or may not be members of the CDA."

-- The Assembly will also choose "10 eminent persons who may or may not be members of the Constitution Drafting Assembly on the advice of the Chairman of the Council for National Security." (Note: it is understood that these 10 are, in point of fact, chosen by the CNS, which we hear has already selected a short list of candidates from which it will fill these slots. End note.)

-- These 35 people will be the drafters of the new constitution.

15. (SBU) This process is somewhat similar to procedures for the 1997 Constitution, in which a large number of candidates from around the country was winnowed down to a 99-member CDA, which then selected 17 drafters. In that case, the parliament had the job of selecting from among the candidates to choose the final membership of the Drafting Assembly, a duty which falls to the CNS this time. As it did in 1996, the CDA this time serves several further functions, including reviewing the draft constitution, proposing amendments, and voting on the final draft before it can be submitted to the

public for a referendum.

¶6. (C) Polcouns met October 26 with Dej-Udom Krairit, the President of the Lawyers Council of Thailand and a member of the Selection Committee choosing the 2000 NPA members. Dej-Udom said that the Committee had begun work on the day the appointments were announced, and had been working non-stop since, in order to prepare the guidelines for the selection process. Dej-Udom said that he expected the process to move quickly now that it had begun. Where the constitution specifies a deadline for choices (such as the 2000-member NPA whittling itself down to 200 within seven days), he was confident the deadline would be met. Where no deadline was specified (the CNS choosing 100 from the 200 nominees), he expected decisions would be made within two-three days. The final list of the 2000 NPA members would be ready by November 22 at latest, he said, and the NPA would presumably meet sometime in December (probably after the King's birthday/national day on December 5) to select from itself the 200 candidates for the next stage. He anticipated that the final 35-member Constitution Drafting Committee (CDC) would be ready to meet sometime in January.

#### GOAL: A REPRESENTATIVE DRAFTING COMMITTEE

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¶7. (C) We pointed out that there was some skepticism about the selection process for the 35 constitution drafters. At each stage, the coup council was in charge of key elements of the selection, leading some to question whether the 35-member Drafting Committee would really be a representative body, rather than a vehicle for the "Bangkok elite" and those who shared the CNS' viewpoint. We questioned whether the elaborate procedures for choosing 2000 people "from all walks of life" would ultimately be irrelevant, once the CNS has made its choices. Dej-Udom recognized the reasons for concern. However, he made a strong argument that drafting body would ultimately be genuinely representative. He explained that the intent was for the general proportions

BANGKOK 00006593 003 OF 004

outlined in paragraph three above to be maintained at each step in the selection process. The voting guidelines would (in some unspecified way) lead to a list of 200 candidates divided up in roughly the same proportions as the initial ¶2000. From those candidates, the CNS would choose a broadly representative group of 100. Once the CDA had chosen its 25 constitution drafters, the CNS would use its 10 slots again to help ensure diversity. We asked whether the 35-member Drafting Committee would, ultimately, look like the National Legislative Assembly -- dominated by Bangkok-based bureaucrats, military and academics. Dej-Udom predicted that it would not.

¶8. (C) Dej-Udom acknowledged that some elements of society were skeptical about the process, and the Selection Committee was looking for ways to build confidence. He had just met with representatives of the Journalists Association, for example, and assured them that they would decide independently which journalists were included in the NPA. Dej-Udom himself had been uncertain of whether he should participate in the Selection Committee, given misgivings about the coup, but had decided he should work to improve the political situation in his country, rather than sitting on the sidelines.

#### BACKGROUND: IT'S LATER THAN YOU THINK

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¶9. (C) Within the 180-day time frame, the 35-member Drafting Committee must accomplish the following tasks: produce a first draft; submit the draft to the 100-member Assembly and other relevant institutions (CNS, National Legislative Assembly, the cabinet, courts, etc.) for comment; publicize the first draft and organize public hearings and fora to solicit input; consider opinions and proposed amendments

within 30 days after dissemination of the first draft; and submit a final version to the CDA for approval, or disapproval. The National Legislative Assembly then has to pass the necessary "organic laws" for example, on elections and political parties. The Election Commission then has to set the election date and organize the elections.

¶10. (C) If elections are to be held on October 1, 2007 (one year from the date of the appointment of PM Surayud), the election date should normally be set by August 2, 2007 to allow 60 days for the Election Commission to organize the elections. Assuming that it takes 90 days after the constitution is finished to draft/pass the necessary organic laws (the amount of time allotted in the interim constitution), the draft constitution should be completed by May 4, 2007. Since it seems unlikely that the constitution will be ready by this time, the drafting period for the organic laws and/or the election season would have to be shortened if the elections were to be held by October 1.

¶11. (C) We pointed out to Dej-Udom that, if the Constitution Drafting Committee does not convene until January, it would be very difficult for the government to meet the target of handing authority back to elected government in a year after the coup, given the timeline laid out in the interim Constitution. Dej-Udom anticipated that the timeline could be accelerated for at least some of these steps. The constitution drafters, for example, would not start from scratch, but would begin, he expected, with the 1997 Constitution as a basis. They therefore might not require six full months for the drafting and approval process. Some of the drafting of the organic laws could overlap with the later stages of the constitution writing. He believed that the CNS wanted to keep the process moving quickly and would be able to prevent slippage.

COMMENT

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¶12. (C) The Council for National Security was criticized for choosing an interim legislature that was not representative of the people; for the constitution drafting process, they seem to recognize that they have to try harder to overcome accusations of insularity and elitism. This is a worthy goal,

BANGKOK 00006593 004 OF 004

although the process of selecting the constitution drafters still seems to require a very great amount of time and effort for an uncertain result. At least they have now committed themselves to a timetable and a plan. Opinions clearly vary among the experts about how long the drafting of the constitution and related laws will actually take (reftels); Dej-Udom is more optimistic than others that the process can be accelerated. We will continue to urge all the participants in the process to work as quickly as possible and to ensure a rapid return to elected government.

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